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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,315	11/20/2001	George P. Zampetti	SYMM1210	9508

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EXAMINER

NGUYEN, MINH T

ART UNIT	PAPER NUMBER
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2816

DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,315

Applicant(s)

ZAMPETTI ET AL.

Examiner

Minh Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 15 and 27-30 is/are rejected.
- 7) ☒ Claim(s) 8-14 and 16-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to the amendment filed on 7/31/03. Claims 1-30 are pending. The following is a detailed Office Action.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it uses words which can be implied, i.e., the first sentence and "are described", line 1. Correction is required. See MPEP § 608.01(b).

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

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Claim Objections

4. Claim 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The recited limitation in claim 7 is recited in claim 1, line 6.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-7, 15 and 27-30 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,341,149, issued to Bertacchini et al.

Regarding claim 1, Bertacchini discloses a method (Fig. 2), comprising:
receiving a pair of input clock signals (CLOCK 1, CLOCK2);

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utilizing a stratum clock state machine (42, state machine 42 is used to control stratum clocks, see abstract) to control a multiplexer and switching the main clock MASTER CLOCK between the pair of input clock signals (the combination of tristate drivers/receivers 38 of the circuits 24 and 26, column 4, lines 16-18, i.e., either SOURCE1 or SOURCE2 is selected as MASTER CLOCK by the selecting signals ALIGN1 and ALIGN2; in other words, the stratum clock state machine 42 controls the tristate drivers/receivers 38 functioned as multiplexer to select and output either SOURCE 1 or SOURCE2 clock as MASTER CLOCK);

inducing a phase build-out activity (one of the activity is to check the presence of the clock inputs, column 3, lines 17-20); and

transmitting the output clock signal (the MASTER CLOCK signal outs to the other circuits).

Regarding claim 2, the recited limitation is the Bertacchini main invention feature ^{u2} (column 2, lines 1-18, Bertacchini invention eliminates the jitter problems by the invention ^{ve} clock control mechanism).

Regarding claim 3, as shown, the signals (SOURCE1 and SOURCE2) of PLLs 12 and 16 are managed by the state machine 42.

Regarding claim 4, the recited limitation is met when the MASTER CLOCK is generated, i.e., in normal operating, the MASTER CLOCK is provided.

Regarding claim 5, the recited limitation is met when a clock source is selected as a MASTER CLOCK, i.e., the phase comparator 36 shown in Fig. 3 is inhibited so that the selected clock source functions as a freerun state (no adjustment of the selected clock source, column 4, lines 21-24).

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Regarding claim 6, the recited limitation is met when the FAIL signals of the first and second CLOCKS are active, i.e., no selection is made; in other words, holdover state.

Regarding claim 7, same as claim 1.

Regarding claim 15, the recited limitation is met when the state machine 42 generates the ALIGN1 = 1 and ALIGN2 = 0, i.e., switching state happens (column 4, lines 16-24).

Regarding claims 27-30, using a computer program, an apparatus, a field programmable gate array or an application specific integrated circuit for performing the method recited in claim 1 is seen as intended uses of any appropriate hardware to perform the method recited in claim 1, therefore, no patentability is given. The evidence is that no structure of any of the recited apparatus or computer program recited in the claims.

Allowable Subject Matter

6. Claims 8-14 and 16-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 8-10 would be allowable because of the limitation: applying a frequency history to a frequency synthesizer in the main clock recited in claim 8. Claims 11-14 would be allowable because of the limitations: short time constant filter, long time constant filter, programmable filter and member of the selected groups recited in claims 11-14, respectively. Claims 16-26 would be allowable because of the limitations recited in claims 16, 19, 22 and 25, respectively.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Nguyen whose telephone number is 703-306-9179. The examiner can normally be reached on Monday, Tuesday, Thursday, Friday 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on 703-308-4876. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

 10/16/03

Minh Nguyen
Primary Examiner
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